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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,578	08/23/2001	Tetsuo Watanabe	Q65941	7895

7590

01/08/2003

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EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 01/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,578

Applicant(s)

WATANABE ET AL.

Examiner

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicants' response in Paper No. 4 electing species (B) fatty acid, (F) olefin thermoplastic elastomer and (H) hydrogenated styrene-butadiene rubber without traverse is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

mistake

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujisawa et al. (US 6262330).

Fujisawa's invention is directed to a pressure sensitive adhesive tape which is particularly suitable for use as medical pressure sensitive adhesive tapes (column 1,

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lines 6-21). Specific examples of the stretchable base material for the tape include polyurethane films, polyester elastomer films, polyolefin films, nonwoven polyurethane fabrics, nonwoven polyester elastomer fabrics and nonwoven thermoplastic polyolefin fabrics, etc. (column 5, lines 7-12). Further, the examples of the polyolefin resin are polypropylene, ethylene-propylene copolymers, etc. (column 5, lines 30-35). The resin composition comprising the polyolefin resin may also contain additives such as dispersing agents, heat stabilizers, etc., as needed. Dispersing agents such as fatty acid esters (for example, purified castor oil) of a higher fatty acid having 10 to 22 carbon atoms with an aliphatic alcohol having 1 to 12 carbon atoms are particularly preferred. The dispersing agents are added in a proportion of generally 0.5 to 25 parts by weight of the polyolefin resin (column 6, lines 1-18).

Claims lack novelty.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 and 8 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fujisawa et al. (US 6262330).

The reference is again relied upon substantially as set forth above. For claims 1-6, if, for the purpose of anticipation, the reference is believed to teach such a number of

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different embodiments that the specific parameters of each of the claims cannot be considered to be in possession of the skilled artisan, the Examiner believes that, alternatively, each of the claimed embodiments is at most a minor modification to one of ordinary skill. Note particularly that in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to select various polypropylene based elastomeric polymer alloy and copolymers as the polyolefin base material, motivated by the desire to improve stretchability of the base material, as taught by Fujisawa.

For claim 8, the Examiner takes Official notice that providing a liquid absorbent pad in the central area of the adhesive layer surface of a medical tape or sheet is old and well known.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujisawa et al. (US 6262330) in view of admitted prior art, or in view of Yazaki et al. (US 5326627).

The teachings of Fujisawa are again relied upon as set forth above. It is noted that Fujisawa lacks specific teaching of including a resin improving agent, such as hydrogenated styrene-butadiene rubber, in the base material. However, it is noted that the section of DESCRIPTION OF THE RELATED ART, Applicants admitted that "olefin based thermoplastic elastomer improved so as to hardly flawed has been developed recently. Examples thereof include a propylene based alloy with a novel highly blended type hydrogenated styrene butadiene rubber" (Specification, page 4, first complete paragraph). As such, it would have been obvious to one of ordinary skill in the art to improve Fujisawa's base material by blending it with a known resin improving agent

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such as hydrogenated styrene-butadiene rubber, motivated by the desire to minimize the flaws. Alternatively, Yazak teaches that polyolefin-based resins may be used either individually or in combination an impact modifier such as hydrogenated petroleum resin, hydrogenated styrene-butadiene rubber, etc. (column 4, lines 52-62). As such, it would have been obvious to one of ordinary skill in the art to modify Fujisawa's polyolefin base material with the hydrogenated styrene-butadiene rubber, motivated by the desire to improve its mechanical properties.


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for making medical adhesive tape or sheet:

JP 06016542 A English Abstract

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


TERREL MORRIS
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